

**Mulcahy, Carriann**

**From:** Steve Orlomoski [sorlomoski@charter.net]  
**Sent:** Monday, September 15, 2008 9:28 AM  
**To:** Phelps, Derek; Caruso, Daniel  
**Cc:** CSC Carmody Law Golden, Robert; CSC Carmody Law Golden, Robert; Wagener, Karl; CSC CL&P Cochran, Jeffrey; CSC CL&P Gibelli, Stephen ; CSC CL&P Morissette, John ; Cunliffe, Fred; CSC Marconi Robert ; Mercier, Robert; Mulcahy, Carriann; CSC PRE Donovan, Dan ; CSC PRE Wiggin Venora Daniel; CSC Wiggin McDermott, Bruce; Noiseux, Bob & Carolyn; Shinkiewicz Roger; Canterbury Sadlowski, Steven; Canterbury Sear, Brian; Canterbury Tetreault, John ; Plainfield Sweet, Paul; rivers@riversalliance.org  
**Subject:** Submission of Closing Brief, Petition Number 784MR, (Friends of the Quinebaug River)

September 15, 2008

Re: Petition No. 784MR – Plainfield Renewable Energy (PRE), LLC petition

Subject: Submission of Closing Brief, Petition Number 784MR, (Friends of the Quinebaug River)

To: Chairman Caruso, Executive Director Phelps, Connecticut Siting Council (CSC) Members, and Service List:

Regarding Petition Number 784MR, the Friends of the Quinebaug River (FQR) files the following as our closing brief, as provided by our representative at the CSC Meeting of August 14, 2008, Mr. Robert Noiseux:

The Friends of the Quinebaug River respectfully requests that the Council reopen the proceeding (Petition 784). We believe that the issues which we have raised are sufficient to demonstrate "Changed Conditions" as required by Connecticut General Statutes. Unfortunately, the governing statutes are somewhat vague. From a transparency perspective, it makes sense that base conditions should be the proceeding record. Simply stating that information may have "been available" but not reviewed, opens the door to the possibility that information may be kept from the Council, resulting in misinformed decisions made due to with deficient or lacking information. Such an event would not serve the public well.

Therefore, we submit the following (please note that the FQR Exhibit Binder is the basis of our brief):

#### **Exhibit 1- The Changed Location**

- FQR Exhibit 1A shows that the location of the PRE pump house has changed from the original application package. During the 784MR Hearing, Mr. Donovan was clearly asked as to who was given the formal, written notice of this change. You may recall that he explained that the Council was given notice through the interrogatory process.
- Exhibit 1B indicates that the property in question was enrolled in the PA 490 program.
- Exhibit 1C indicates that, despite PRE's interrogatory answers, the proposed pump house property usage does not conform to Canterbury Planning and Zoning regulations.
- Exhibit 5C, paragraph 1, describes the confusion surrounding the changed location.

We believe that the CSC should act to bring some closure to these points.

#### **Exhibit 2- The Changed Relationship with the Host Community**

- Exhibit 2 clearly shows a progression. The CSC was led to believe, by PRE, that PRE had a good relationship with the host community. Indeed, exhibit 2A, dated June 29, 2007 would seem to support that position. On that date, a contract was signed between PRE vice president Guilmartin and Canterbury's then-First Selectman Neil Dupont. The signing of this document was very controversial within the town. The document was allowed no public scrutiny and, in fact, the public was forbidden to even comment on the issue at Canterbury Board of Selectmen meetings. In November 2007, a new Board of Selectmen were elected in Canterbury. Concerned citizens were finally given the opportunity to bring the controversial agreement forward and asked the new town administration to review it. Exhibit 2B is the result of that review. This document clearly explains why the contract was invalid. This document explains that a town vote, at referendum or Town Meeting, could resolve the matter. When told of this, rather than respect the laws of the Town of Canterbury, PRE's response was to sue the Town of Canterbury (Exhibit 2D). In Exhibits 2E and 2F, Canterbury's Inland-Wetlands and Watercourses Commission (IWWC) attempted to bring forward their concerns to the CSC. PRE's response to the IWWC request was a short, condescending letter to them (see Exhibit 2G) which can hardly be considered "positive community outreach." Further, as a side note, please refer to Exhibit 5C, paragraph 2 to note how PRE vice president Guilmartin stated that the Town of Canterbury was simply trying to "extort money" from his company. Again, this is community outreach? Finally, along this line, PRE's August 5<sup>th</sup> 'response' to FQR's interrogatories of July 31<sup>st</sup>, is full of patronizing remarks, that is -- when they chose to answer FQR's interrogatories, at all. Several interrogatories were simply ignored.
- Was the Town of Plainfield treated any differently? Exhibits 2J and 2K address some of the Plainfield situation, particularly in the area in which the powerplant facility is to be constructed. Since the filing of CSC exhibits, the DEP held a PRE public hearing in Plainfield (August 13, 2008). That evening, the local citizens expressed overwhelming opposition to this controversial project. It seems that except for a few politicians and union members wearing 'PRE Now' t-shirts, that PRE had few local friends at that hearing. We do not feel that this represents positive community outreach from PRE.

#### **Exhibit 3- The Environmental Disaster**

9/16/2008

- Most local residents have heard of the name 'Yaworski'. For decades, the various Yaworski concerns were involved in the dumping of toxic materials into Canterbury's Packerville section. As a result of these activities, at least four sites are now known to be contaminated. They are the Yaworski Lagoon (an EPA Superfund site); the adjacent Yaworski Landfill and Bulky Waste dump; a DEP administered facility, and two lesser known disposal sites on the East side of Packer Road. During testimony, PRE introduced a letter into the record claiming that the DEP had reviewed the Yaworski Landfill and Lagoon records, and saw no issue with the PRE pump house property. Since that time, PRE introduced that letter at the DEP Hearing. During discussion, PRE was asked as to which properties this letter referred. Mr. Akin (a PRE consultant) testified that this letter only referred to the Yaworski properties on the West side of Packer Road. Later during testimony, Mr. Mark Lewis (DEP Remediation Office) was asked about the contaminated Yaworski properties on the East side of Packer Road. He testified that he was aware that they existed. He also testified that if there were a ground plume, it would most likely be headed towards the Quinebaug River. What we see on the maps of the subject area is that the PRE property is between the Yaworski site along the railroad tracks and Quinebaug River. We would ask the Council to take a more comprehensive look at the matter of contaminated real estate. We contend that the Council may have inadvertently approved the disturbance of potentially contaminated property. Furthermore, these issues are totally absent from the CSC record. It seems likely that such information was never disclosed to the Council.
- To support our positions, Exhibits 3B-3F discuss dumping and the effects of such, at the various Yaworski sites. These letters were written by eye witnesses. These letters speak for themselves.
- Exhibit 3G indicates how extensive and widespread the Yaworski operations were.
- Exhibit 3H is an example of one of the study documents written about the Yaworski landfill sites.

What does all of this have to do with PRE and their pump house property?

- Exhibit 3I is a copy of the pump house property deed. This carries a curious environmental rider which states, among other things, "that the Premises are located in close proximity to the property known as the Yaworski Landfill, a federally declared Super Fund site, and further that the Premises are located in close proximity to the Yaworski transfer station and activities associated therewith." and "...the Buyer has been advised by the Owner to research the Super Fund and landfill information at the Canterbury Town library." One would assume that as part of due diligence, the Applicant would take such warning very seriously and review the materials at the library (note that the library is a repository facility for the Yaworski matter). Just exactly how much material is at the library? A photograph (Exhibit 3J) shows the volume of material on file. The contents of the Yaworski 'shelves' were stacked on a hand truck. Mrs. Alison Haber is seen standing next to the stack. When asked via interrogatory, whether PRE did, in fact, review the Yaworski materials, they refused to answer the question. Exhibit 3H is a tiny sample of what is contained in this pile. Further, during the DEP Public Hearing on August 13<sup>th</sup>, PRE vice president Donovan used the Exhibit 3J photo in his opening slide show. He told the audience that the photo showed the Canterbury librarian standing next to PRE's DEP application binders. His purpose was to show the volume of work PRE had done. In fact, he did not really know what that photo was of, as it was neither a stack of PRE documents nor was it the Librarian standing next to the documents. During the public portion of the hearing, the person who took the photo, Mr. Steven Orlomoski, stated exactly what the photo represented and PRE subsequently withdrew it from the record.
- Relative to the pump house property, PRE has submitted to the CSC an ownership chain, going back to the 1890s. In 1893, the property was purchased by Aspinook Mills. We believe that this information should be of special interest to this matter. Aspinook Mills was a textile manufacturer in Jewett City, as is documented in Exhibit 3K. Turn-of-the-century textile mills were not known to be good environmental stewards. So, what was this property used for and are there any legacy issues associated with Aspinook Mills' use of it? The fact is, that there is no evidence that anyone has even looked. During testimony, a bar way (gateway in a stonewall) was mentioned connecting the pump house property with the Yaworski property to the North. Town of Canterbury land records show that until a mid-1990s subdivision, the property to the North contained the Yaworski lagoon and landfill. Exhibit 3L generally supports PRE's ownership claims. The 1950 page, line 605, shows Aspinook as owning land with no buildings in 1950. But by 1961, line 808, the Griswold Corporation owned the property. Interestingly, the property is designated as "Industrial Real Estate" by the town and yet, still contains no buildings. This begs the question: what had occurred on this property to make it considered "Industrial" in the early 1960s?

#### **Exhibit 4- The Draft 2008 305b Report**

- In July, 2008, the CT DEP released its draft 305b report. This document is prepared every couple of years as the DEP seeks to improve the quality of Connecticut's surface waters. Previously, the section of the Quinebaug River designated as #2 (containing the proposed withdrawal and discharge activities) had been 'unassisted.' Now, with more current information available, the DEP has sufficient grounds to declare this portion of the river 'impaired.' Exhibit 4A contains excerpted sections of this report (pages 39, 139, and 293 clarify the situation). Furthermore, testimony at the DEP Hearing by an expert in the field of River Science and the author of a comprehensive Quinebaug River Study indicates that the proposed PRE usage will only make this impairment worse.
- Clearly, this situation has changed since PRE went through the CSC. The Friends of the Quinebaug River has been advocating (to the DEP) the use of a dry-cooling system for the PRE facility which would have zero impact on the 'impaired' Quinebaug River. This recent development supports that claim and strengthens the argument for taking a better look at this matter.

#### **Exhibit 5- The Recreational Issue**

Since the CSC considered the matter of PRE's usage of the Quinebaug River, recreational usage has increased considerably. This is due, in large part, to the improved level of easy, public access to the Quinebaug River. In the spring of 2007, DEP, with the assistance of local volunteers, improved a section of the local Wildlife Management Area, allowing the public to easily launch boats. Exhibits 5A, 5B, 5C, and 5D describe the effects of this increased access. Exhibit 5C, Paragraph 4 also discusses some of the effects of the PRE pump house's river water intake screen on fishing resources. Further, given the known high nutrient loading on the Quinebaug River and the proposed impairment, this situation is unacceptable and should be looked at a bit more thoroughly.

#### **Summary**

We believe that the following changed conditions exist:

1. The pump house location has changed. The new location has a series of problems which should be evaluated. Reopening the proceeding would allow a formal means of professionally and thoroughly evaluating the un-scrutinized location.
2. PRE's heavy-handed approach to dealing with the host communities has soured relationships with many local citizens. Reopening the proceeding would give PRE a significant interest in truly working with the local community.
3. The pump house property is in the middle of one of the state's most highly toxic areas. Unless it was the intent of the Council to approve constructing a pipeline in the middle of one of this most toxic area, the situation should be given another review by the Council.
4. Quinebaug River segment 2 is in the process of being added to the Connecticut 305b Water Assessment List, and therefore ultimately to the CT 303d Impaired Waterway List. Reopening this proceeding will provide the Council an opportunity to balance the appropriateness of permitting a water-cooled plant in such an environment.
5. The lower Quinebaug River is the beneficiary of new facilities and an increased interest in recreation. Reopening the proceeding will allow a complete evaluation of the proposed activity impact with this established public usage.

In closing, it is our view that Issue 3 of our summary should certainly have been addressed as part of the original record. Unfortunately, and for reasons unclear, it was not. The revised pump house location was not made known to the public until after the Council's decision was made, which, we strongly believe, made it impossible for the public (as well as the Town of Canterbury's Inland-Wetlands and Watercourses Commission) to review, research, and comment on this information in a timely matter. Indeed, only the Council and the Applicant knew of this revision. We believe that there was a responsibility to the public to bring such pertinent information forward.

Finally, based on what has transpired over the course of the period leading to the August 14<sup>th</sup> CSC meeting, it appears that the Council relied almost entirely upon information provided by the Applicant. This, we believe, led to the exclusion of important and potentially critical details. From our perspective, the Council is faced with a choice: should the matter be reopened and reevaluated with a focus on the environmental concerns which have come to light, or should these issues be disregarded and forgotten? We believe that the former is the right thing to do and we request that you, therefore, grant our original motion.

Thank you,

/s/ Steven F. Orlomoski

STEVEN F. ORLOMOSKI  
Secretary, Friends of the Quinebaug River

#### CERTIFICATION

I hereby certify that a copy of the foregoing Submission of Closing Brief, Petition Number 784MR, (Friends of the Quinebaug River) was sent via Email this 15<sup>th</sup> day of September, 2008 to:

CEQ – Karl Wagner  
CL&P – Jeffery Cochran, Stephen Gibelli, John Morissette  
CSC – Daniel Caruso, Fred Cunliffe, Robert Marconi, Robert Mercier, Carriann Mulcahy, Derek Phelps  
Carmody Law – Robert Golden, Corey Saunders  
Friends of the Quinebaug River – Carolyn Noiseux, Robert Noiseux, Roger Shinkiewicz  
PRE and Counsel – Dan Donovan, Bruce McDermott, Daniel Venora  
Rivers Alliance of Connecticut – Margaret Miner  
Town of Canterbury – Steven Sadlowski (ZEO), Brian Sear (First Selectman), John Tetreault (IWWC)  
Town of Plainfield – Paul Sweet (First Selectman)

#### Delivered to the CSC:

Per Mr Phelps' direction, twelve (12) hard copies of this document will be mailed to his attention at the Connecticut Siting Council, Ten Franklin Square, New Britain, CT 06051

/s/ Steven F. Orlomoski

STEVEN F. ORLOMOSKI  
Secretary, Friends of the Quinebaug River

